

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RICARDO VELASQUEZ,

Plaintiff,

-against-

2535 WEBSTER 3769 LLC and WEBSTER
CHICKEN CORP.,

Defendants.

24-CV-4463 (JGLC)

ORDER OF DISMISSAL

JESSICA G. L. CLARKE, United States District Judge:

Plaintiff Ricardo Velasquez filed this action on June 11, 2024. ECF No. 1. On September 5, 2024, the Court ordered Plaintiff to file a motion for default because Defendants had not appeared or answered the Complaint. ECF No. 10. In response, on September 20, 2024, Plaintiff informed that Court that he had named the incorrect party in the Complaint and requested an extension of time of 45 days to allow Plaintiff to locate and serve the correct Defendant. ECF No. 11. The Court granted Plaintiff's request, ECF No. 12, though Plaintiff failed to amend and serve the summons and Amended Complaint within the time ordered by the Court. ECF No. 13. Thereafter, Plaintiff requested, and the Court granted, a further extension to amend and served the summons and Amended Complaint. ECF Nos. 14 and 15. Plaintiff again failed to meet the Court's deadline and was ordered to show cause as to why the Court should not dismiss the case. ECF No. 17. With permission from the Court, Plaintiff filed an Amended Complaint on January 31, 2025, which was served on Defendants on February 13, 2025. ECF Nos. 19, 20, 25, 26. Defendants did not answer or otherwise appear by the deadline, and on April 2, 2025, the Court ordered Plaintiff to file a motion for default judgment by April 25, 2025. ECF No. 27. Plaintiff was warned that failure to timely file a motion for default could result in dismissal for failure to

prosecute. *Id.* As of today's date, Plaintiff has not responded to the Court's April 25, 2025 order, nor has he otherwise indicated that he intends to pursue this action.

Rule 41(b) of the Federal Rules of Civil Procedure provides that a district court may dismiss an action if "the plaintiff fails to prosecute or otherwise comply with [the] rules or a court order." Fed. R. Civ. P. 41(b); *see also Baptiste v. Sommers*, 768 F.3d 212, 216 (2d Cir. 2014). Under Rule 41(b), a district court may dismiss an action *sua sponte* for failure to prosecute after notifying the plaintiff. *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001). Because the Court has not received any response from Plaintiff, including any indication that he intends to pursue this case, the instant action is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of Court is respectfully directed to terminate all pending motions and close the case.

Dated: May 1, 2025
New York, New York

SO ORDERED.



JESSICA G. L. CLARKE
United States District Judge